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July 29, 2003

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 – 12th Street, NW
Washington, DC 20554

RE: Petition for Rulemaking To Amend the DTV Table of Allotments

Dear Ms Dortch:

On behalf of Smith Television of New York License Holdings, Inc., licensee of WETM-TV, Elmira, New York, enclosed are an original and four copies of its Petition for Rulemaking proposing the substitution of Channel 33 for Channel 2 as the station's paired DTV allocation.

Please contact the undersigned directly with any communications regarding this submission.

Respectfully Submitted

HOGAN & HARTSON L.L.P.

By: _____
Brad C. Deutsch

Counsel for Smith Television of
New York License Holdings, Inc.

Enclosures

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Amendment of Section 73 622(b),	)	MB Docket No. 03-__
Table of Allotments,	)	RM-_____
Digital Television Broadcast Stations.	)	
(Elmira, New York)	)	

To The Chief, Video Division
Media Bureau

PETITION FOR RULE MAKING
TO AMEND THE DTV TABLE OF ALLOTMENTS

Smith Television of New York License Holdings, Inc. ("Smith TV"), licensee of WETM-TV, Elmira, New York and permittee of the paired DTV facility WETM-DT (Facility ID No. 60653),[1] by its attorneys and pursuant to Sections 1.401, 73 622(a) and 73 623 of the Commission's rules (47 C.F.R. §§ 1.401, 73.622(a) and 73 623), hereby respectfully petitions the Commission to initiate a rule making proceeding to amend Section 73.622(b) of the Commission's rules (47 C.F.R. § 73.622(b)) (the "DTV Table of Allotments"), to change the initial DTV Channel allotment for station WETM-DT from Channel 2 to Channel 33.

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[1] WETM-DT is currently operating with facilities specified in a May 27, 2003 request for special temporary authority (File No. BDSTA-20030527AJX, granted June 16, 2003) (the "DTV STA Request")

Pursuant to this proposal, the DTV Table of Allotments would be amended as follows.

City	Present	Proposed
Elmira, New York	**2**, 55	**33**, 55

WETM-DT has been allotted DTV Channel 2. However, as the result of the same difficulties many broadcasters are having with low band VHF DTV digital operations, Smith TV has found it necessary to propose and utilize facilities on DTV Channel 2 for WETM-DT that are far short of those that would otherwise be allowable under the Commission's rules [2/]

As specified in the attached Technical Exhibit prepared by du Treil, Lundin & Rackley, Inc., a search of the UHF core band (Channels 14-51) yielded Channel 33 as the best alternate channel for WETM-DT. The Channel 33 allotment would allow WETM-DT to operate from the same location and same antenna height as that presently authorized in the WETM DTV Construction Permit but with an effective radiated power (ERP) of 525 kW, rather than the 7.47 kW specified in the WETM DTV Construction Permit. Accordingly, the public interest would be served through enhanced service and more efficient use of the broadcast spectrum.

[2/] *See* The DTV STA Request. *See also* File No BPCDT-19991029ABG (the "WETM DTV Construction Permit") and File No. BMPCDT-20021021AAR (pending DTV construction permit modification application).

As demonstrated in the attached Technical Exhibit, the proposed service area would encompass the community of license, as required by 47 C.F.R. § 73.623(c)(1), and the proposed allotment parameters conform to the Commission's *de minimis* interference standard, 47 C F R. §73.623(c)(2). Additionally, there would be no prohibited contour overlap to any Class A television station from the proposed Channel 33 facility.

Accordingly, and in light of the foregoing, Smith TV respectfully requests that the Commission commence a rule making proceeding to amend the DTV Table of Allotments to allot and assign DTV Channel 33 (in lieu of Channel 2) to Elmira, New York, for use by WETM-DT

Respectfully submitted,

SMITH TELEVISION OF NEW YORK
LICENSE HOLDINGS, INC.

By: _____
Brad C. Deutsch

Hogan & Hartson, L.L.P.
555 13th Street, N.W.
Washington, DC 20004-1109
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Its Attorneys

Dated. July 29, 2003

TECHNICAL EXHIBIT
PREPARED IN SUPPORT OF
PETITION FOR RULEMAKING TO
MODIFY THE DTV ALLOTMENT TABLE
STATION WETM-DT
ELMIRA, NEW YORK

Technical Narrative

This Technical Statement and associated Figures have been prepared on behalf of digital television station WETM-DT, allocated to Elmira, New York Station WETM is the only full-service VHF station assigned to Elmira. Station WETM desires to operate on a UHF channel in order to avoid potential technical problems that may arise with lower VHF channels A search of the UHF core band (14-51) indicates that channel 33 is the best alternate channel for WETM-DT Therefore, WETM-DT proposes to modify its DTV allotment to from channel 2 to channel 33

WETM-DT channel 33 can be substituted and allotted to Elmira in compliance with the principal community coverage requirements of Section 73.625(a) at reference coordinates

42° 06' 22" North Latitude
76° 52' 17" West Longitude

The proposed DTV reference coordinates are the geographic coordinates of the licensed WETM(TV) NTSC facility.[1] The coordinates are also the same as those allocated by the Commission for the WETM-DT allotment.

[1] See FCC File Number: BLCT-19980615KE

Figure 1 is a coverage map showing the noise-limited coverage contour and the city coverage contour for the proposed facility. As shown all of Elmira is encompassed within both contours (2000 Census)

In addition, operation on DTV channel 33 appears possible with a maximum effective radiated power (ERP) of 525 kW utilizing a directional antenna radiation envelope and with an antenna height above average terrain (HAAT) of 363 meters and a radiation center of 756 meters above mean sea level.

Allocation Analysis

The proposed Rulemaking meets all of the minimum separation requirements to domestic stations and allotments, with the exception of the following

WGRZ-DT, Ch 33, Buffalo, NY
WFXV(TV), Ch 33, Utica, NY
WITF-TV, Ch 33, Harrisburg, PA
WIVT(TV), Ch. 34, Binghamton, NY
WICZ-TV, Ch 40, Binghamton, NY

Figure 2 provides a summary of interference and service for the proposed channel 33 allotment. Determination of interference and service was based on the procedures outlined in OET Bulletin No. 69 and criteria contained in Sections 73.622 and 73.623 of the FCC's rules It is believed that the proposed channel 33 allotment is in full compliance with the FCC's 2 percent criterion for *de minimis* impact applicable to DTV allotment modifications under Section 73.623(c)(2)

Therefore, it is proposed to modify WETM-DT's authorization to specify operation on the alternate DTV channel with the following specifications:

State & City	DTV Channel	DTV ERP (kW)	Antenna Radiation Center	Antenna HAAT (m)
NY, Elmira	33	525 kW	756 m AMSL	363 m
Note: Directional Antenna, see Figure 3				
Reference Coordinates 42° 06' 22" N. Latitude/76° 52' 17" W. Longitude				

No prohibited contour overlap is predicted towards any Class A television station from the proposed Channel 33 facility The proposed Rulemaking will not significantly impact any LPTV stations

Canadian Allocation Analysis

As the proposal is located in the U.S /Canada border zone (within 400 km), a Canadian allocation study was conducted to confirm compliance with the Canadian Letter of Understanding (LOU). A separation study indicates that the proposed Channel 33 operation meets all of the minimum separation requirements to Canadian stations except for DTV station CBLT-TV, Ch 33 at Barrie, Ontario The proposal is 32 kilometers "short" of the minimum required separation distance of 371 kilometers (UHF, Class VL to Class VU).

The predicted 19 5 dBu, F(10,10) interfering contour for the proposed WETM-DT operation does not overlap the CBLT-TV DTV Ch. 33 82 kilometer contour (see Figure 4). It is therefore believe that the proposed allotment is in compliance with the Canadian L.O U

Summary

It is proposed to amend the DTV Table of Allotments, Section 73.622(b) of the Commission's Rules, as follows

City	Channel No Present	Proposed
Elmira, NY	2, 55	33, 55

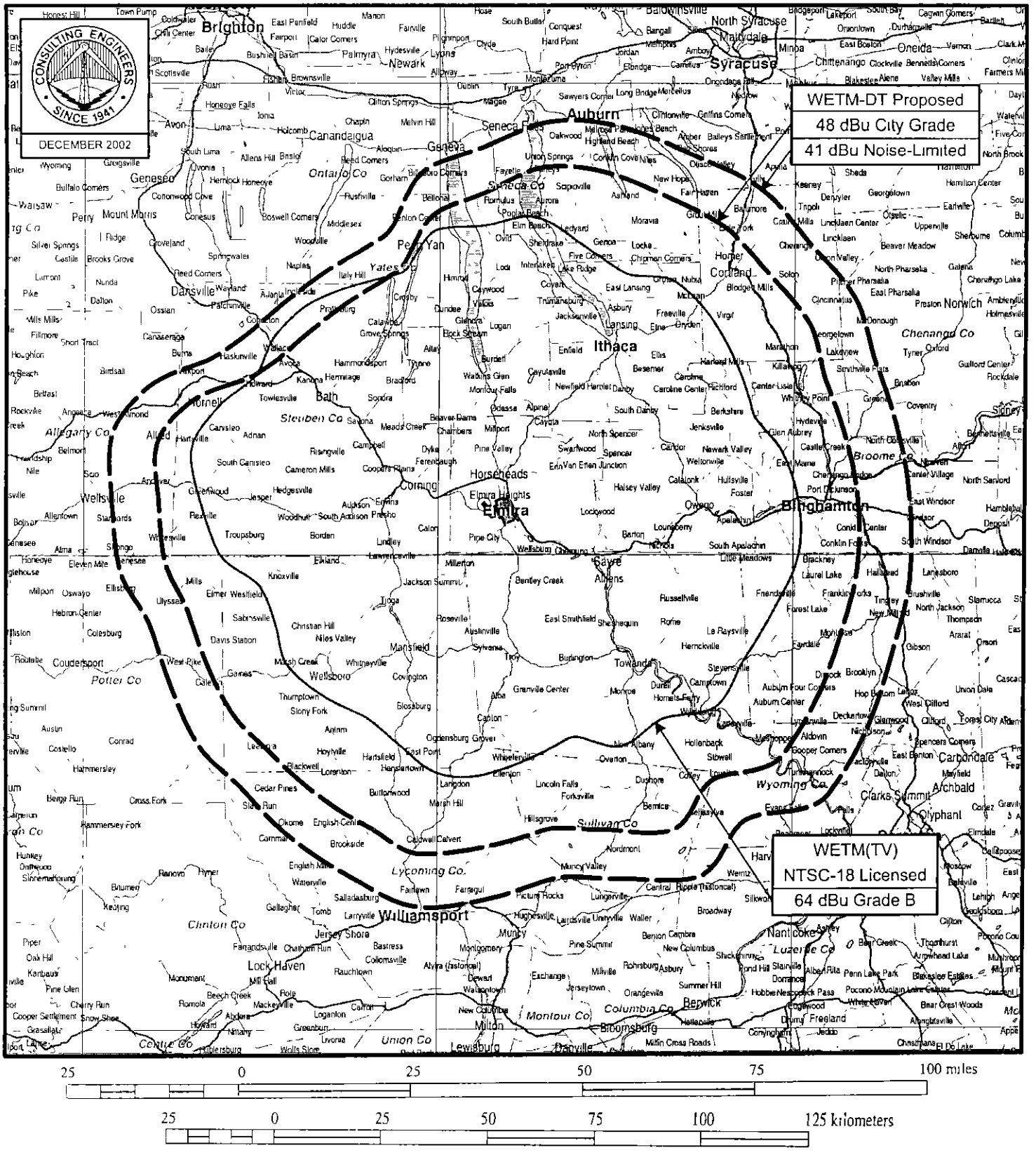
This instant Rulemaking petition is not contingent upon any pending or future application for construction permit for any facility

Jonathan N. Edwards

du Treil, Lundin & Rackley, Inc.
201 Fletcher Avenue
Sarasota, Florida 34237
(941) 329-6000

December 31, 2002

Figure 1



PREDICTED F(50,90) COVERAGE CONTOURS

STATION WETM-DT

ELMIRA, NEW YORK

CH 33 525 KW (MAX-DA) 363 M

du Treil, Lundin & Rackley, Inc Sarasota, Florida

TECHNICAL EXHIBIT
PREPARED IN SUPPORT OF
PETITION FOR RULEMAKING TO
MODIFY THE DTV ALLOTMENT TABLE
STATION WETM-DT
ELMIRA, NEW YORK

Summary of DTV and NTSC OET-69 Allocation Analysis

Facility	Channel	NTSC or DTV?	Baseline Service Population (1990)	Net New IX Caused by Proposed (1990)	Percent of Baseline (%)
WGRZ-DT Buffalo, NY *DTV Allotment*	33	DTV	2,192,239	7,475	0.3
WFXV(TV)(CP) Utica, NY *BPCT-19960111LM*	33	NTSC	775,089	7,719	1.0
WFXV(TV)(LIC) Utica, NY *BLCT-19861210KG*	33	NTSC	311,616	1,065	0 3
WITF-TV Harrisburg, PA *BMLET-19820217KH*	33	NTSC	2,086,437	14,161	0 7
WIVT(TV)(LIC) Binghamton, NY *BLCT-19871110KV*	34	NTSC	704,486	2,835	0.4
WIVT(TV)(CP) Binghamton, NY *BPCT-19970807KK*	34	NTSC	644,625	2,117	0.3
WICZ-TV(Lic) Binghamton, NY *BLCT-19900206KG*	40	NTSC	620,087	462	0.1

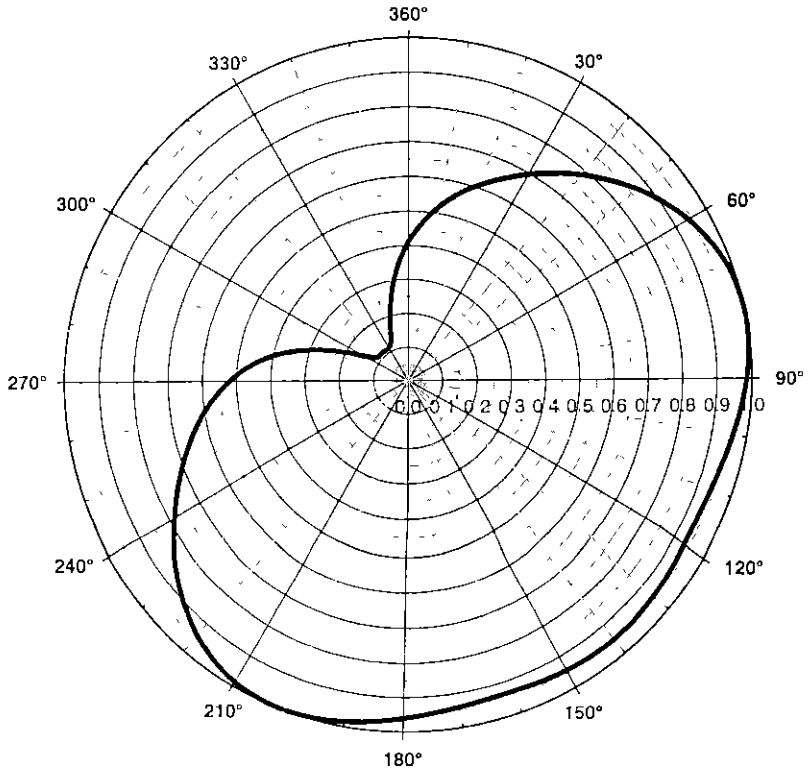
Figure 2

TECHNICAL EXHIBIT
PREPARED IN SUPPORT OF
PETITION FOR RULEMAKING TO
MODIFY THE DTV ALLOTMENT TABLE
STATION WETM-DT
ELMIRA, NEW YORK

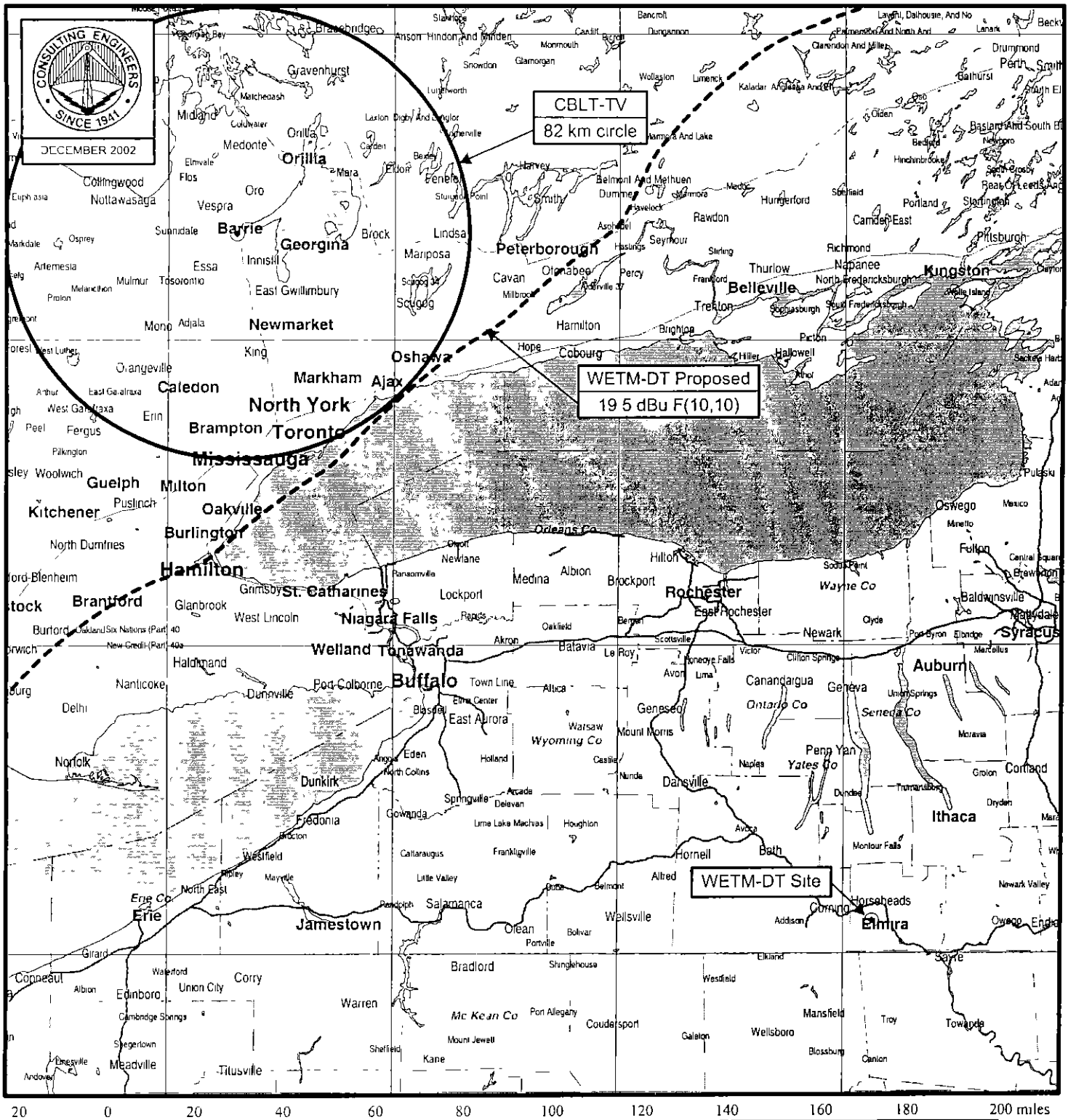
Proposed Directional Antenna Tabulation for
WETM-DT on Channel 33

Bearing (0° True)	Relative Field
0	0 412
10	0.521
20	0 612
30	0.697
40	0.785
50	0.870
60	0.942
70	0.988
80	1.000
90	0.986
100	0 961
110	0 940
120	0 934
130	0 944
140	0 950
150	0 944
160	0 934
170	0 940

Bearing (0° True)	Relative Field
180	0.961
190	0.986
200	1.000
210	0.988
220	0.942
230	0.870
240	0.785
250	0 697
260	0.612
270	0.521
280	0.412
290	0.272
300	0.148
310	0.112
320	0.111
330	0 112
340	0.148
350	0.272



Proposed Directional Antenna Pattern
Andrew ALP-WC Pattern Orientated at 140° True



20 0 20 40 60 80 100 120 140 160 180 200 miles

20 0 20 60 100 140 180 220 260 300 kilometers

CANADIAN INTERFERENCE STUDY

STATION WETM-DT

ELMIRA, NEW YORK

CH 33 525 KW (MAX-DA) 363 M

du Treil, Lundin & Rackley, Inc Sarasota, Florida